

**IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.6309 OF 2005

The State of Maharashtra, Applicant.
VS
Sadashiv Swarupa Charapale, Respondent.

Mr A.S.Shitole, APP for the applicant.
Mr H.S.Venegaonkar, for the respondent.

CORAM : D.B.BHOSALE, J.
DATED : 10th JULY, 2006

P.C.:

1. Heard the learned counsel for the parties.

2. This is an application under section 378(3) of the Code of Criminal Procedure, seeking leave to appeal against the judgment and order dated 21.12.2004, acquitting the accused of the offences punishable under sections 147, 341, 324, 427 r/w 149 of IPC. The case of the prosecution was that on 16.11.2001 when the complainant along with Balu Kawade, his son Pradeep Amte and grand-son Vikram Amte were taking their sugarcane to Ajinkyatara sugar factory in a truck, they were obstructed by a mob of about 100 persons including all the nine accused. The said mob and all the accused wanted the complainant to take his sugarcane to Bhogavati sugar factory within whose jurisdiction the complainant had grown the said sugarcane. When they were obstructed, it appears, a wordily altercation and scuffle took place between them, in which negligible simple injuries were

suffered by the complainant and Balu. I perused the judgment. It is clear from the evidence placed on record that the identity of the accused itself had not been established beyond reasonable doubt. When the complainant was asked to identify Sanjay Patil and Dhondiram Patil in Court, he pointed out Shankar Patil as Sanjay Patil and Nandkumar as Dhondiram Patil. No explanation was offered as to how the complainant could name all the accused in the complaint when he did not know them and why only nine persons were named when the mob was of 100 persons. Even out of the nine accused the other witness pradeep Amte also could name only two accused. Kawade, PW 6, could not name any of the accused persons. One of the witnesses, Sanjay Patil PW 8 also stated in the Court that he cannot identify the accused persons. Even the evidence of the doctor also does not support the allegation of the assault on the victims. This shows that the very identity itself of the accused persons had not been established by the prosecution beyond reasonable doubt. Considering the reasons recorded by the trial Court on appreciation of the evidence on record, the impugned judgment cannot be said to be unreasonable and perverse. The view taken by the trial Court, on the basis of the evidence on record, is reasonably possible view and merely because another view is also possible, that by itself cannot be a ground to

interfere with the order of acquittal. In my opinion, this is not a fit case to grant leave

to appeal against the order of acquittal, based on the material on record. The criminal application is rejected.

(D.B.BHOSALE, J.)